HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 381 of 2007

Between:

T.S. Param Jyothi & another

… Appellants

And

Dr. K. Anil Kumar & others

… Respondents

:: J U D G M E N T ::

Counsel for the appellants : Shri Pratap Narayan Sanghi

Counsel for respondent Nos. 3 and 4: Shri T. Durga Reddy

June 19, 2007

Per G.S. Singhvi, CJ

This appeal is the fourth round of litigation by the appellants, who have so far failed to frustrate the action taken by the Andhra Pradesh State Financial Corporation (for short, 'the Corporation') for recovery of the loan advanced to respondent Nos.1 and 2.

Respondent No.1 – Dr. K. Anil Kumar took loan of Rs.13.5 lakhs

from the Corporation. The appellants and respondent No.2 gave guarantee for repayment of the loan. Due to failure of respondent No.1 to repay the loan, the Corporation initiated action under Section 29 of the State Financial Corporations Act, 1951 (for short, 'the Act') and recovered a sum of Rs.14 lakhs by selling the property of respondent No.1. The appellants, who were also served with notice under Section 29 of the Act, filed Writ Petition Nos.13346 and 14489 of 2006, which were dismissed by the learned Single Judge on 3-7-2006 and 15-3-2007 respectively. In the third writ petition filed by them, which was registered as Writ Petition No.6376 of 2007, the appellants prayed for grant of the following relief:

> "……..it is prayed that this Hon'ble Court may be pleased to issue:
>
> a) writ of mandamus or any other appropriate writ or order or orders or direction declaring the impugned action of the respondents for dispossessing the petitioners from their residential house and not allowing them to pay the amounts released to the extent of loan based on petitioners property is illegal, arbitrary and in violation of principles of natural justice, apart from violation of fundamental rights as guaranteed under Articles 14, 19 and 21 of the Constitution of India.
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> b) In view of the above said circumstances, I pray that this Hon'ble Court may be pleased to grant an interim stay of further proceedings against the respondents not to dispossess the petitioners from their property pending disposal of the writ and considering the representation of the petitioners to pay the amount due after deducting the amount realised from the disposal of the property of respondent No.2, which is in the possession of the respondent organisation and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice and equity."

The learned Single Judge noted that two writ petitions filed

earlier for grant of the same relief were dismissed and held that there was no justification to entertain the prayer made by the petitioners against their dispossession from the residential house.

While issuing notice of the appeal on 01.05.2007, the Court passed the following order:

> "Shri Pratap NarayanSanghi for the appellants.
>
> This appeal is directed against order dated 29.03.2007 passed by the learned Single Judge, whereby he declined to interfere with the action initiated by Andhra Pradesh State Financial Corporation (for short, 'the Corporation') to recover its dues by disposing of the property of the appellants.
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> We have heard Shri Pratap Narayan Sanghi.
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> During the course of dictation of order, Shri Prat ap Narayan Sanghi, learned counsel for the appellants made a statement that his clients are ready and willing to deposit the entire amount due to the Corporation and, therefore, the latter may be restrained from transferring and delivering possession of the residential property of his clients to the purchaser who is said to have given a bid of Rs. 6.3 lakhs.
>
> In our opinion, even though the appellants have lost in three earlier rounds of litigation, the offer made by them deserves to be accepted in larger public interest. Hence, the case is adjourned to June 19, 2006 with the direction that the appellants shall hand over bankers cheque of Rs. 22 lakhs to the Managing Director of the Corporation within a period of four weeks from today.
>
> We also direct that the Managing Director of the Corporation should file his own affidavit within four weeks to explain as to why the Corporation has not taken any action for recovery of the amount from the debtors i.e. respondent Nos. 1 and 2 for all these years. The officer concerned should explain to the Court as to why proceedings under Section 32G of the State Financial Corporations Act, 1951 were not initiated.
>
> While adjourning the case, we give liberty to the appellants to implead the person who has given the

highest bid as party respondent."

At the hearing, Shri Pratap Narayan Sanghi, learned counsel for the appellants candidly stated that his clients have failed to comply with the condition of handing over banker's cheque of Rs.22 lakhs to the Managing Director of the Corporation within the time specified in the Court's order.

In view of the above, there is no escape from the conclusion that the appellants' offer to pay the entire amount due to the Corporation was intended to delay the action initiated by the Corporation. Therefore, we do not find any valid ground or justification to interfere with the order passed by the learned Single Judge.

With the above observations, the appeal is dismissed.

As a sequel to dismissal of the appeal, W.A.M.P.No.722 of 2007 filed by the appellants for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

19.06.2007

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